



Clearly the information contained in the FBI agent's notes would be available to Defendant from his own wife.

The Court finds the case of *United States v. Todd* particularly persuasive on this point.<sup>2</sup> In *Todd*, the defendant sought the production of FBI reports based on interviews the FBI conducted with the defendant's brother and his brother's girlfriend. The Government had disclosed to defendant that both his brother and his brother's girlfriend had information that could possibly exculpate defendant, yet the Government refused to produce the FBI reports containing that information. The defendant in *Todd* argued that the statements given to the FBI contained a fresher recollection of events than statements the same witnesses might make at a later time. According to the defendant then, the Government was required to produce the FBI reports in order to satisfy its *Brady* obligations. The Sixth Circuit disagreed. Applying the principle that there was no *Brady* violation where information was available to a defendant from another source, the Sixth Circuit determined that "defendant was aware of the essential facts that would enable him to take advantage of the exculpatory evidence."<sup>3</sup> The Sixth Circuit concluded that the Government had fulfilled its *Brady* obligations even though the reports were not produced for the defendant.

In light of the foregoing, the Court holds that the Government has met its duty to disclose exculpatory material under *Brady* in this case. The Government has made Defendant aware of

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603, 610 (6th Cir. 2004); *U.S. v. Brown*, 332 F.3d 363, 369 (6th Cir. 2003); *U.S. v. Tarwater*, 308 F.3d 494, 515 (6th Cir. 2002); *U.S. v. Corrado*, 227 F.3d 528, 538 (6th Cir. 2000); *U.S. v. Clark*, 928 F.2d 733, 738 (6th Cir. 1991); *cert. denied*, 502 U.S. 846 (1991).

<sup>2</sup> 920 F. 2d 399 (6th Cir. 1990).

<sup>3</sup> *Id.* at 405.

the statements his wife made to the FBI which would “enable him to take advantage of” potentially exculpatory information. Therefore, Defendant’s Motion is **DENIED**.

**IT IS SO ORDERED.**

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
UNITED STATES MAGISTRATE JUDGE

Date: August 29<sup>th</sup>, 2008.